



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/976,006	10/12/2001	Charles Brockway	MIDTF/306P2	9617

26875 7590 06/23/2003

WOOD, HERRON & EVANS, LLP
2700 CAREW TOWER
441 VINE STREET
CINCINNATI, OH 45202

EXAMINER

VU, STEPHEN A

ART UNIT PAPER NUMBER

3636

DATE MAILED: 06/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/976,006

Applicant(s)
Brockway et al

Examiner
Stephen Vu

Art Unit
3636



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Apr 23, 2003
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other:

Art Unit: 3636

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(i) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-18 stand rejected under 35 U.S.C. 102(b) as being anticipated by Lamb et al (D420,225).

Lamb et al (D420,225) shows a chair comprising a chair support, a seat section, a back section, and a pair of arm rests rigidly connected to the back section.

With claims 2 and 10, the back section has a back frame and a back cushion supported on the back frame.

With claims 3, 11, and 17, the arm rests are integrally formed with the back frame.

With claims 4, 12, and 18, the back frame and arm rests comprise a unitary casting.

With claims 5 and 13, a drive mechanism is provided.

With claims 6 and 14, the chair support has a chair base, a lift arm supported on the chair base, and a chair support assembly supported on the lift arm.

With claims 7 and 15, the support assembly comprises a yoke member supported on the lift arm and pivotally supporting the back section and a seat support (see Figure 5).

Art Unit: 3636

3. Claims 1-18 stand rejected under 35 U.S.C. 102(b) as being anticipated by Nordstrom et al (D347,946).

Nordstrom et al (D347,946) shows a chair comprising a chair support, a seat section, a back section, and a pair of arm rests rigidly connected to the back section.

With claims 2 and 10, the back section has a back frame and a back cushion supported on the back frame.

With claims 3,11, and 17, the arm rests are integrally formed with the back frame.

With claims 4,12, and 18, the back frame and arm rests comprise a unitary casting.

With claims 5 and 13, a drive mechanism is provided.

With claims 6 and 14, the chair support has a chair base, a lift arm supported on the chair base, and a chair support assembly supported on the lift arm.

With claims 7 and 15, the support assembly comprises a yoke member supported on the lift arm and pivotally supporting the back section and a seat support (see Figure 5).

4. Claims 1-2,4-10, and 12-16 stand rejected under 35 U.S.C. 102(b) as being anticipated by Heubeck.

Heubeck shows a chair comprising a chair support, a seat section (5), a back section (5), and a pair of arm rests (11) rigidly connected to the back section.

With claims 2 and 10, the back section has a back frame and a back cushion supported on the back frame.

With claims 4,12, and 18, the back frame and arm rests comprise a unitary casting.

Art Unit: 3636

With claims 5 and 13, a drive mechanism is provided.

With claims 6 and 14, the chair support has a chair base (13), a lift arm (2) supported on the chair base, and a chair support assembly (3) supported on the lift arm.

With claims 7 and 15, the support assembly comprises a yoke member supported on the lift arm and pivotally supporting the back section and a seat support (see Figure 5).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35

U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Art Unit: 3636

7. Claims 3,11,17 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Heubeck.

Heubeck discloses the claimed invention except for the arm rests to be integrally formed with the back frame. It would have been obvious to one having ordinary skill in the art at the time the invention was made to integrally form the arm rests with the back frame, since it has been held that forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art. *Howard v. Detroit Stove Works*, 150 U.S. 164 (1893).

Remarks

The examiner has reviewed and considered the applicant's comments in the Amendment, filed on March 23, 2003. It's the examiner's position that the following claims stand rejected. Claims 1-18 stand rejected under 35 U.S.C. 102(b) as being anticipated by Lamb et al (D420,225). Claims 1-18 stand rejected under 35 U.S.C. 102(b) as being anticipated by Nordstrom et al (D347,946). Claims 1-2,4-10, and 12-16 stand rejected under 35 U.S.C. 102(b) as being anticipated by Heubeck. Claims 3,11,17 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Heubeck. The applicant has argued that the prior art fail to show that the "pair of arm rests are rigidly connected to the back section". Based on the broadest reasonable interpretation of the claims, it is best interpreted that prior art of Lamb et al (D420,225),

Art Unit: 3636

Nordstrom et al (D347,946), and Heubeck do show that the pair of armrests to be rigidly connected to the back section.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

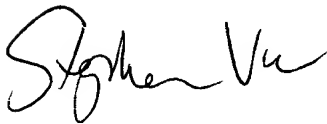
9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen A Vu whose telephone number is 703-308-1378. The examiner can normally be reached on M-F, 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M Cuomo can be reached on 703-308-0827. The fax phone numbers for the

Art Unit: 3636

organization where this application or proceeding is assigned are 703-305-7687 for regular communications and 703-305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.



Stephen Vu
Patent Examiner
June 18, 2003



Peter M. Cuomo
Supervisory Patent Examiner
Technology Center 3600